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Transposition of EU social policy in the new member states

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Summary This article analyses transposition of European Union (EU) social policy legislation in the new member states (NMS) from Central and Eastern Europe (CEE). In order to account for the varying rate of adoption of EU law at the national level the article develops several hypotheses about the impact of government preferences and administrative capacity on the pace of transposition in the social policy field. The hypotheses are tested on a new dataset comprising data on the transposition of EU social policy directives in the new member states. The results of the quantitative empirical analysis show that government support for European integration and administrative effectiveness has positive and substantial effects on the number of directives transposed in a given period of time. However, government positions on the Left–Right and libertarianism–traditionalism dimensions do not affect the adoption of EU social policy legislation in CEE.

Key words Central and Eastern Europe, EU enlargement, EU social policy, implementation, transposition

Understanding social policy in Europe requires attention to the dynamic interactions between different governance levels. The outcomes of European Union (EU) policies are crucially shaped by the transposition and practical enforcement at the national level. Consequently, the importance of transposition and implementation have been widely recognized and these processes receive growing attention (Börzel, 2001; Dimitrakopoulos, 2001a; Duina, 1997; Haas, 1998; Steunenberg, 2006). We have mounting empirical evidence that there is systematic variance in the speed and quality of compliance with EU law in the different member states (Berglund et al., 2006; Falkner et al., 2005; Haverland and Romeijn, forthcoming; Kaeding, 2007). Further, for several member states and policy areas it has been shown that there are persistent problems with timely and proper transposition (Börzel, 2001; Bursens, 2002; Mastenbroek, 2003). An explanation of these findings, however, is still wanting (Mastenbroek, 2005).

The last enlargement of the EU provides an opportunity to look at the process of adapting to EU law

at the national level from a novel perspective. The performance of the candidate countries in taking on board the ‘*acquis communautaire*’, the body of EU legislation, during the accession negotiations and during the first years of membership in the EU can bring important insights for the study of policy implementation in multi-level systems of governance. The applicant countries have to transpose all the European legislation in force prior to their accession: not a trivial task by any means as rough estimates of the volume of rules to be adopted report a figure of 90,000 pages. It is truly astonishing, then, that the former communist countries from Central and Eastern Europe (CEE) that joined the EU in 2004 have been able to successfully adopt the larger part of EU law in the course of only a few years (European Commission, 2005). The available data for the performance of the CEE states in general, and in the field of social policy in particular, show that practically all the new member states (NMS) have outperformed most of the old members (European Commission, 2005). The present article

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takes up this puzzle and, focusing on the field of social policy, poses the research question: What is the impact of party preferences and government effectiveness on the transposition of EU directives in CEE?¹

Employment and social policy is a particularly suitable milieu for a study of implementation of EU laws in the NMS as it is built on a sufficiently large number of directives adopted during the last two decades and covering issues as diverse as racial anti-discrimination to protection of workers from chemical hazards. More importantly, social policy in the EU comprises both issues of relatively high societal and political importance such as gender equality, and more 'mundane' or technical areas such as working conditions. Social policy is also a policy domain where Left and Right, liberal and conservative parties have clearly divergent preferences. Lastly, several recent studies of compliance with EU social policy in the 'old' member states provide a benchmark and a context for the findings of compliance with EU social policy in the NMS (Duina, 1997; Falkner et al., 2005; Haverland and Romeijn, forthcoming; Leiber, 2005; Linos, 2004).

This article presents an empirical analysis of several hypotheses about the influence of political and administrative factors on the transposition and implementation outcomes in the countries from CEE. Based on the analysis of a new dataset the study concludes that the strength of support for European integration of the governing parties at the national level and government effectiveness both have strong positive effects on implementation of EU social policy, while no evidence for the influence of party ideology is found. The article proceeds as follows: first, a discussion of some of the theoretical contributions to the study of compliance in the EU is presented and several hypotheses are identified. Then, a brief account of the evolution of the use of directives as a policy instrument in the field of social policy is presented. Focusing on the accession negotiations between the EU and the CEE countries, data on the opening and closing of negotiation chapters and on the transitional periods gained is presented together with a bivariate analysis which explores the influence of party ideology. Then, more extensive and rigorous testing of the theoretical propositions is conducted using time series cross-sectional methods on a new dataset tracing the transposition of 61 social policy directives in seven new members of the EU. Lastly, the concluding section discusses the implications of the findings for contemporary debates about the development of European social policy and compliance with EU law.

Theorizing the effect of Europe: preferences and administrative capacity

Theoretical insights from the literatures on implementation, compliance with international regimes, and Europeanization have all been employed in the study of compliance with EU law. The attention of these theories converges on the impact of preferences and institutional capacity for change.

The problem of why national states comply with international agreements in the absence of an enforcement system has given rise to two theoretical perspectives, commonly labelled 'management' and 'enforcement' (Raustiala and Slaughter, 2002; Tallberg, 2002). Under the 'enforcement' view, non-compliance stems from an 'incentive structure in which the benefits of shirking exceed the costs of detection' (Tallberg, 2002: 611). A coercive strategy of monitoring and sanctions is needed to remedy the problem of insufficient compliance, according to enforcement theorists. In contrast, under the managerial view compliance is the normal behavioural reflex of the administrative system as 'efficiency dictates considerable policy continuity' (Chayes and Chayes, 1993: 178). Non-compliance, when it occurs, is a result of misinterpretation of the norms, or insufficient resources to implement them.

It is unclear to what extent the enforcement and management approaches present complementary or opposing theories of compliance. While the two approaches often work with the same variables, the relative importance they attach to actors' preferences and capacity for change is different. Under the managerial view, it is the potential to steer change, shaped by the efficiency of the system that enhances or limits compliance with the obligations. It is assumed that preferences also play a minor part because the countries would not usually have signed an agreement in the first place which goes contrary to their preferences. However, we should be careful not to push this point too far, as strategic non-compliance by the signatories still cannot be ruled out under the management approach. However, under the enforcement view it is the preferences of the domestic actors, together with the assessment of the costs and benefits of alternative levels of compliance, which drive the process. Administrative efficiency and capacity, however, also can be accommodated in the enforcement perspective in the form of external constraints, or endogenous factors in the models.

Preferences and capacity-based arguments play major roles in rationalist and normative accounts of implementation of EU policies in the member states, too. Rational choice-based explanations emphasize the preferences of the relevant actors, and the institutions which structure their interactions (Dimitrova and Steunenberg, 2000; Steunenberg, 2006). In contrast, sociological institutionalist accounts emphasize the impact of norms and culture on the success and swiftness of EU-promoted policy change (Dimitrova and Rhinard, 2005; Falkner et al., 2005). Normative resonance, however, is extremely difficult to operationalize for a larger number of cases, so this path will not be pursued further. To the extent that the new rules fit the existing normative structure on the domestic level, it is mainly the capacity to reform which will constrain the implementation of policy change.

At a more general level, the discussion of the influence of preferences vis-a-vis capacity resurfaces in the discussion of whether implementation of EU rules and policies is a political or administrative process (Dimitrakopoulos, 2001b; Haas, 1998; Tallberg and Jonsson, 2005). A political vision of compliance and implementation necessarily emphasizes the role of preferences and attitudes. If implementation is a genuinely political process, then the analysis should start with what the actors want to achieve. The post-decisional politics of compliance puts political preferences centre stage. However, if implementation is regarded as a predominantly administrative exercise then there is little room for preferences in the explanation. What matters is the efficiency of the administrative system and its capacity to steer and implement policy change.

While the importance and explanatory potential of preferences vs capacity is an issue cross-cutting several areas of academic interest, the differences should not be overestimated. There are attempts to link the two concepts together in a single theoretical framework (Tallberg, 2002), and practically, in empirical research, scholars often explore the influence of both preferences and capacity. For this reason, the present article does not attempt to test a model derived from one of these theories, nor does it pit a preference-based approach against a capacity-based one. Rather, having identified these areas of common concern it proceeds to derive more explicit propositions about the impact of both preferences and capacity, and then to investigate whether these

hypotheses are helpful in explaining transposition of EU social policy legislation in the NMS from CEE.

Specifying the effect of preferences and capacity on social policy transposition in the EU

Preferences can be operationalized in a number of different ways, but this study focuses on party ideological positions in particular. The choice is motivated by the central role of governing political parties in policy making in regard to transposition and implementation of EU policy at the national level in CEE. Party positions can be usefully summarized by a small number of underlying dimensions. A continuum between ideological Left and Right positions is commonly employed as the major axis of political conflict in Europe.

How are Left–Right positions related to opinions on EU social policy? As the focus of the analysis is the CEE countries during and immediately after Enlargement, we have to take into account their situation in the field of social policy, or the status quo, prior to the start of negotiations and the associated incorporation of the social acquis. While I hypothesize an effect of Left–Right ideology on the timing of transposition of EU social policy, the direction of the effect has to be left unspecified as it is impossible to justify a strong assumption about the relation of Left–Right position to EU social policy. The liberalization reforms in CEE at the beginning of the 1990s lowered the levels of social protection below the levels institutionalized by the EU social legislation. In some areas of EU involvement – health and safety measures for workers for example – we can reasonably assume that the status quo has been less demanding than the EU legislation. In the field of gender equality this assumption is, however, more problematic (Leiber, 2005).² As we cannot firmly locate the national status quo policies prior to the adoption of EU rules, it is impossible to further specify the effect of Left–Right party position. As a result the hypothesis posits only the presence of an impact, while avoiding an expectation about the direction of the effect.

H1: Government positions on an ideological Left–Right continuum affect the timing of the process of transposition and implementation.

The Left–Right dimension is not, however, the only one capturing the preferences of political parties. A second axis takes account of their positions in regard to libertarianism vs traditionalism and this dimension has been shown to be highly relevant for parties in West and East Europe (Marks et al., 2006). Because of the large number of EU directives dealing with gender equality and racial and sex discrimination, this dimension can be expected to be significant in the context of adapting to EU social policy. We can safely position the majority of EU social policy at the libertarian end of the spectrum. The second hypothesis then posits:

H2: Government positions on a liberalism–traditionalism dimension affect the timing of the transposition and implementation process.

Substantial policy preferences, however, can be outweighed by preferences over European integration. Especially in the context of Enlargement negotiations, the strength of support for EU membership in the candidate countries can dwarf the difference between the substantial policy preferences of the governing parties and the EU policy. If an actor regards EU integration positively, it might be willing to tone down substantial concerns and proceed with swift and timely policy transposition and implementation. However, negative feeling towards integration can be expected to affect the pace and quality of EU-promoted change negatively. Hence,

H3: The more supportive of EU integration is a government, the faster the transposition and implementation process.

The first three hypotheses try to create indirect proxies for government preferences over EU social policy. Of course, if we have a way of measuring directly how much the governing parties like or do not like EU social policy specifically, the logic of the argument about the impact of preferences will lead to the expectation that the more actors support EU social policy, the faster and easier the transposition process will be. So, following essentially the same proposition expressed in the first set of three hypotheses (government preferences for European social policy affect the rate of transposition and implementation), we would expect measures of the specific attitude towards EU social policy legislation

to be related to the transposition performance. Although separated in a separate hypothesis, the following statement captures a different indicator for the same underlying phenomenon, rather than a substantially different theoretical expectation.

H4: The more supportive of EU social policy is a government, the faster the transposition and implementation process.

The set of four hypotheses is intended to capture the influence of the ‘will’ of the countries to comply with EU social policy and outline a ‘political’ vision of the process of implementation. They take up, first, a common-sense intuition that policy outcomes are related to what governments want, and, second, are directly related to actor-based rationalist theoretical accounts. It should be noted that while the impact of preferences is widely suspected in the existing literature, there have been no attempts so far to link estimates of party preferences based on the dimensions identified with EU policy implementation outcomes. The proposition about the influence of EU support has been tested in a number of studies (Kaeding, 2007; Lampinen and Uusikyla, 1998; Mbaye, 2001). However, general social attitudes towards the EU have been employed as the explanatory variable (nearly all the studies find no effect). It is a particular feature of this analysis that elite, and more specifically governing parties’ preferences are taken into account. The causal chain linking attitudes towards European integration and implementation outcomes is definitely more direct if we focus on party preferences.

The measures on preferences used in the study are based on the Chapel Hill’s 2002 (see Marks et al., 2006) expert survey of party preferences.³ First of all, preferences over European integration are taken from party scores in regard to the question about general party position on European integration. The same survey reports measures of party positions on the Left–Right dimension ranging from 1 standing for Left-wing to 7 standing for Right-wing. The next variable created is based on the question positioning political parties over a dimension between green–alternative–libertarian (GAL) and traditionalism–authority–nationalism (TAN). Finally, the survey asks a direct question about the party preferences in terms of the EU employment policy and this has also been coded

and included in the dataset. The survey covers all the major parties which have been in power in the CEE countries for the time periods under study (1998–2005). Although the scores are based on a survey conducted in 2002–03 the estimates are assumed to hold for a few years before and after the measurement. So, each government has been attributed values on these variables; for coalition governments a combined score has been created by weighting the party score by its relative strength in the government (based on the relative percentages of party support in the parliament).

While the operationalization and measurement of preferences is rather straightforward, it is more difficult to arrive at a measure for the governmental capacity to change. Government effectiveness has been employed as a variable in qualitative empirical research (Haverland and Romeijn, forthcoming; Linos, 2004; Mbaye, 2001) and plays a prominent role in several theoretical accounts of compliance in the EU (Knill, 2001; Tallberg, 2002). We can approach the question of assessing efficiency directly, or hypothesize that certain institutional features of the political and administrative systems lead to more efficiency and capacity for change. Both approaches are followed. First, in order to capture general efficiency an assessment based on expert surveys is used. Second, the possible link between government type and EU policy implementation is discussed and a negative effect of the number of parties in government on the pace of reform is proposed.

As already discussed, if the default reaction of governments is to comply with external rules (EU social policy in this case), then the efficiency of the government and the administration to manage change is the major limitation for successful transposition and implementation. However, inefficient bureaucracy will slow down and hinder the process even if there are no 'political' reasons to oppose the implementation of EU policy.

H5: The more efficient is domestic governance, the faster are transposition and implementation.

A measure of efficiency is inherently contestable as there is no agreed-upon definition as to what government efficiency is, and how best to attribute country scores in regard to that item. The present study relies on measures of perceived efficiency as

reported by a study of the World Bank. The aggregated expert opinions have the advantage that they present a measure comparable across time and space. Of course, they contain a 'subjective' view of efficiency but that is still a reasonably good way to assess such a slippery concept.

The data on efficiency is taken from the World Bank Governance Indicators 1996–2004 (see Kaufman et al., 2005).⁴ All CEE countries are covered and a few data points available: for 1998, 2000, 2002 and 2004. The values are assumed to reflect effectiveness for the year the assessment is made, and the previous year. The survey offers several indicators focusing on different aspects of governance: Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, Control of Corruption. All these are coded but because of their high colinearity only one indicator is used. As Government Effectiveness is the most closely related to our theoretical specification, it is the one used.

The first measure of government capacity in terms of efficiency is direct. The next hypothesis is based on the expectation that certain institutional government characteristics enhance or hamper governmental capacity to introduce timely policy change. The coalition status and the number of parties participating in a government are such aspects. The more interests are to be accommodated in the Cabinet, the more difficult it is to agree on the timing and content of implementation measures. A single party in government can enhance interdepartmental coordination, and centralize the decision-making process for compliance with the EU. However, the more parties there are in government the higher the chance for disagreements. These considerations bring us to the last hypothesis of substantial interest for the present analysis.

H6: The number of parties in government is negatively associated with the pace of transposition and implementation.

Finally, several variables pointed out by the existing literature can be incorporated as control variables. The specific pressure exercised by the EU has to be taken into account as the insights from the study of the conditionality of Enlargement show (Dimitrova, 2002). A realist interpretation of the

relations between the EU and the candidates would also call for attention towards the variance in pressure to change (Vachudova, 2005). However, the 'conditionality' framework has only limited utility in explaining cross-country variation in a single policy sector. While some sectors have inevitably been prioritized during the Enlargement negotiations (social policy has certainly not received a high priority), there is no evidence for variation in the application of EU pressure to different countries. The pressure varies over time, but the major interest of this article is in addressing the cross-country variation. Incorporating into the analysis the backlog of directives yet to be transposed in a particular country at a particular point of time addresses to some extent the effect of EU pressure. A country with a bigger backlog is supposed to be under greater pressure, all else being equal, than a country which has only a few pieces of legislation left to transpose. Further, increasing backlog is likely to lead to more acts being transposed in the subsequent period as there are more available pieces to 'download'. As a result, the influence of pressure is depicted by a variable which traces the amount of directives yet to be transposed divided by the time periods until the end of the deadline. The effective deadline for all directives until 2004 has been taken to be May 2004, the official date of accession. This measure of backlog captures the proposition that the more a country has to do in terms of transposition by the time of actual accession, the more pressure it has to conclude the pending transposition cases.

The suggestion that the level of unemployment in a country can be related to the policy changes is borrowed from the political economy literature on welfare transformation (Linos, 2004). In the case of adapting to the EU social policy, higher unemployment is expected to lead to more protracted change. The rationale is as follows: EU employment and social policy provisions present employers with additional expenses arising, for example, from the application of health and safety measures. As the implementation of these policies increases the costs for employers, countries with higher levels of unemployment will be less willing to comply timely and effectively because it can lead to further reductions in numbers of workspaces available. The unemployment data used are available on a yearly basis from Eurostat.

EU social policy in the context of accession negotiations

Before proceeding to the empirical tests of the propositions identified in the previous section, a discussion of the adoption of EU employment and social policy legislation in the context of Enlargement negotiation is offered. Unlike existing member states which can influence, and in the case of decision making under unanimity simply block, the adoption of certain EU policies, the candidates have only very limited opportunities to secure derogations and transitional periods in the process of accession (Nicolaidis, 1999).

The candidate countries have two main channels to calibrate the *acquis* to their specific situation: to identify critical areas and negotiate transitional periods, and to explore the discretion potential of each directive. Data available at the moment strongly suggest that the NMS from CEE have been quite successful in transposing EU law in the course of the accession period. The 2005 report from the European Commission shows that all NMS, with the exception of the Czech Republic, successfully comply with the standard of 1.5 percent non-transposition, and Lithuania and Hungary are first and third in the ranking of best performers (European Commission, 2005). The situation is reflected in the social policy field as well.

How much is there to transpose and implement in the social policy field? Despite the overwhelming focus on the impact of soft law, and specifically the open method of coordination, on the development of EU social policy, 'hard law' in the form of directives is still a major instrument of European social policy development (Falkner et al., 2005). Figure 1 sketches the pace of development of social policy directives over time. The solid black area shows the number of directives adopted in the field of social policy and employment each year, while the shaded area shows the total number of directives in force in any particular year. The varying slopes result both from the changing number of directives adopted, and from the volume of directives repealed or expiring in that particular period. The main trends in development of EU social policy legislation are clearly identifiable with an increase in the average number of directives passed after the middle of the 1980s, as well as after the mid-1990s. It also shows that by the time the CEE countries joined the EU,

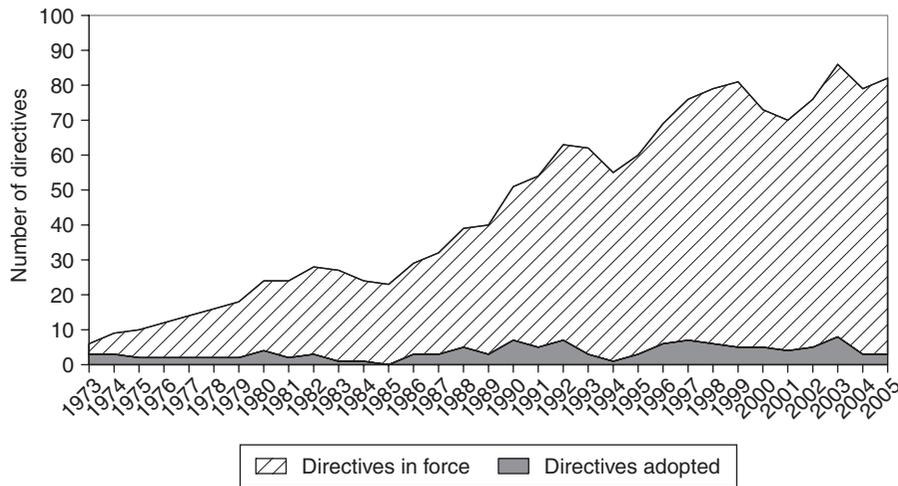


Figure 1 The growth of social policy directives

more than 70 social policy directives needed to be implemented. The three main areas of activity cover health and safety at the workspace, other working conditions, and gender equality and non-discrimination (Falkner et al., 2005).

In order to explore the adoption of EU social policy in the NMS we should also look at the speed and outcomes of the negotiations. Two indicators are of broad relevance: the length of negotiation in the sector, and the number of transitional periods secured. The accession negotiations follow a sectoral logic and are organized along sectoral lines. A number of negotiation 'chapters' divide the issues into separate domains. A chapter is opened after the screening process has identified the needed changes of domestic legislation and the European Commission has accepted the national government's position paper on the policy area. In the process following the opening of the chapter, the candidate country expresses its demands for derogations, qualifications, and transitional periods and tries to persuade the EU of the comprehensiveness of its intended national implementing measures. Once these issues have been resolved the negotiation chapter is provisionally closed.

How did the process unfold during the last enlargement in the field of social policy? First of all, negotiation of the social chapter (Chapter 13 – Employment and Social Policy) took significantly longer for the first group (the so-called Luxembourg

group – the Czech Republic, Hungary, Poland, Estonia) of candidate countries which were invited to start negotiations in 1997. The Helsinki group, for which negotiations were opened in 1999, was significantly faster. The Czech Republic and Poland took more than a year-and-a-half to close the chapter while Slovakia, Lithuania, and Latvia needed only up to five months. This comparison highlights the fact that the Helsinki group had significantly less time to develop and defend negotiating positions because of the need to catch up in the negotiations with the first group of countries in view of the EU's commitment for a 'Big Band' enlargement with a large number of countries at once. More surprisingly, the number of transitional periods requested and accepted is rather low. Bulgaria negotiated a transitional period in the area of public health. Latvia and Poland have been granted, respectively, 3 and 1 transitional periods in the area of working conditions. Slovenia has secured 4 transitional periods in the area of health and safety at work. The interpretation of the number of transition periods negotiated is by no means straightforward, as it can reflect a deeper concern and understanding of the implications of the EU legislation policy area, issue linkages and side deals with other policy areas during the negotiations, or genuine political opposition to some provisions of the legislation to be adopted.⁵

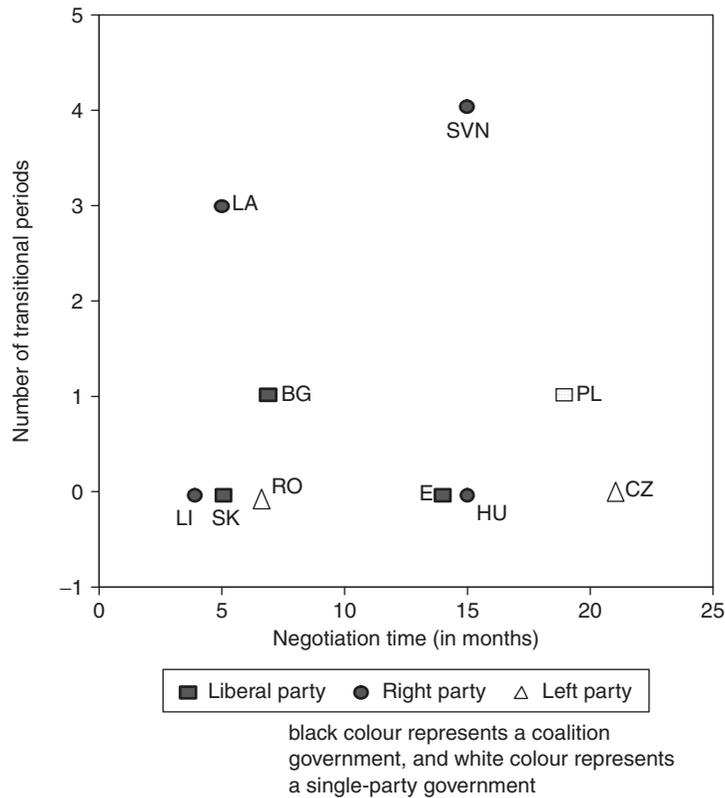


Figure 2 Length of negotiation and transitional periods gained in the field of social policy during the last Enlargement

These data allow us to look in a preliminary way at some of the hypotheses developed. We can expect that Right and liberal governments are more likely to request derogations and transitional periods as the EU legislation increases the level of regulation at the national level. We can further expect that coalition governments will be less effective in negotiating because they have to coordinate and accommodate different interests at the national level before bargaining with the Commission. Just by visual inspection of Figure 2 we can see that the first of these propositions is not disproved by the data, while the coalition argument does not seem to hold.

A more sophisticated analysis than this bivariate plot will be superfluous because of the limited variability in both the dependent and the independent variables, and the small number of cases. Still, the

plot shows that all the governments which secured transitional periods were not Leftist ones. Both socialist governments in Romania and the Czech Republic sealed 'no exemptions' deals in the field of social policy. Both the Latvian and the Slovenian governments were dominated by Rightist parties at the time of negotiating the transitional periods. Unfortunately, for the sake of the argument, only three parties have ruled alone at the time of closing the chapters, so the coalition hypothesis can hardly be inspected. Two of these governments are Leftist, so in that case the influence of ideological preferences might trump the influence of the type of government. Further, the Czech and Polish governments are single-party minority governments so can hardly be expected to command more leverage than a coalition government.

Thus far, the empirical analysis has presented the growth of EU directives as a policy instrument in EU social policy, and described the main features of the accession negotiations during the last round of Enlargement. Data on the length of negotiations and the transitional arrangements gained were used to examine, in a somewhat informal manner, the proposed impact of government type and government ideology. Only the link between government ideology and the number of transitional periods agreed upon seems to be supported by the data. In the pages which follow, the hypotheses derived from the theoretical overview will be tested in a more rigorous fashion.

The impact of preferences and effectiveness on transposition

In order to assess the impact of government preferences and effectiveness on transposition of EU social policy in the NMS, a new dataset was created which tracks the number of completed transposition cases for the period 1998–2005. The dataset was arranged for the use of time series cross-sectional (TSCS) methods for analysis. The transposition fate of each individual directive could have been chosen as the unit of analysis instead of aggregating the transposition figures over time-slots and countries. However, the individual cases of transposition will tend to be non-independent, creating problems for the method of analyses, because for a large number of the cases the explanatory variables will be virtually the same as country-level institutional features change only very slowly. In order to address this problem, the period under investigation is divided into several time points and the overall number of directives adopted in each country within that period is computed. Pooling data in such a manner we can achieve a moderate amount of cases (each case is a country–time period observation) and still have a sufficient amount of variation on the dependent variable and on the independent variables. The approach still needs information on the fate of individual directives as a first step; however, this information is combined to yield aggregate estimates of the directives transposed over a relatively short period of time.

Adopting this research strategy, data on the transposition of the body of social policy directives in then NMS from CEE was gathered. The legal database of the European Union, Eurlex, gives informa-

tion on the national implementing measures (NIMs) notified by the national government for each directive. From the total number of ‘employment and social policy’ directives, 61 directives in force for which the deadline for transposition had expired were selected. Those directives dealing with geographical extensions or updates of existing legislation, as well as directives which were still formally in force but had their substantial clauses incorporated and developed by subsequent law, were avoided. The sample of 61 cases for transposition represents the whole variety of EU social policy in terms of sub-areas, period of adoption, adopting institutions, and so on. Then, the NIMs for these cases in all the eight CEE members of the EU were inspected. Normally, the countries report more than one NIM (sometimes they report more than 40 measures). From these, the measure, whether a law or a secondary piece of legislation, adopted last was taken as the transposition measure recorded in the dataset.

Arguably, all the measures reported have some relevance. We are particularly interested, however, in when the process was essentially completed (see Falkner et al., 2005). A focus on the first measure passed would underestimate significantly the time needed for transposition. It is assumed that as long as the countries have yet to pass legislation, in terms of the specific directive, the transposition process could not be considered completed. Also, in terms of the subsequent use of the data, it is more important to know when exactly the process was completed, rather than when it started. Of course, the date of adoption of the last NIM reported is not a perfect measure as we are not guaranteed that yet more acts will not be passed in reference to the directive. Nevertheless, it is trusted to be a reasonably accurate estimate of the legal incorporation of a piece of EU law.

The individual-level dataset is sorted and combined to give the number of finalizing NIMs to be adopted in any six-month period between January 1998 and the end of 2005. The dependent variable, so constructed, is measured therefore over 16 time periods for seven countries (the Czech Republic, Hungary, Latvia, Lithuania, Poland, Slovenia, and the Slovak Republic; as measures for some independent variables were impossible to obtain for Estonia it was dropped from the analysis). For the right-hand side of the equation the variables discussed in the theoretical

Table 1 Descriptive statistics of the variables used in the study

<i>Variable</i>	<i>Mean</i>	<i>St. dev.</i>	<i>Minimum</i>	<i>Maximum</i>
Number of transposition processes completed in a 6-month period	3.41	3.90	0.00	20.00
Support for European integration	6.19	0.60	4.37	6.94
Position on the Left–Right dimension	5.47	1.69	2.89	7.75
Position on the GAL–TAN dimension	5.13	1.51	1.88	8.06
Government effectiveness	0.62	0.21	0.08	1.02
Support for the EU social policy	4.84	0.83	2.80	6.00
Number of parties in government	2.94	1.18	1.00	5.00
Backlog	3.65	2.54	–3.00	11.00
Unemployment percentage	11.63	4.69	5.70	19.90

section are distributed in the six-month time slots. Table 1 reports the descriptive statistics for the dependent and independent variables.

The dataset is analysed using time series cross-sectional methods (TSCS). Because of the distribution of the dependent variable, and the fact that it represents essentially count data, a Poisson model was first estimated. However, as the variance of the dependent variable is larger than the mean, a negative binomial model was considered more appropriate. The results reported are from the estimation based on the negative binomial specification.⁶ The size and direction of coefficients change only very slightly; however, the statistical significance of the results is more difficult to achieve under the negative binomial estimation assumptions, so it presents a stricter test of the hypotheses. As the heterogeneity between the units is expected to be the most serious problem arising from the multi-level structure of the dataset, and because the data are time-dominated (the time-periods are more than the cross-sectional observations), a fixed effect model is used which models directly the unit heterogeneity with the help of separate intercepts for the different units (countries) (Says, 1989). Practically, the effect is achieved through the use of country dummies. The non-independence of observation in time is trusted to be taken care of by the ‘backlog’ variable.

Two substantially different models are specified, which are both estimated with and without the fixed effects. The first model treats party preferences in an indirect manner: preferences for EU integration, Left–Right and liberalism–traditionalism positions are used as proxy in order to infer the willingness of the governments to transpose EU social policy directives. The second model takes direct account of

preferences towards EU employment and social policy in particular. It is expected that in both cases the preferences arguments should hold. Because the conceptual ‘distance’ between the preferences for transposing social policy legislation and preferences toward EU social policy is smaller, the effect of the latter should be stronger and more robust than the effect of the general ideological preferences. Table 2 presents the results.

Above all, it can be noted that the models perform well and the results are fairly stable and consistent across specifications. Moreover, including the fixed effects does not significantly alter the results as both the size and significance of coefficients remain steady. Looking at the Akaike Information Criteria (AIC) we can see that the fixed effects (1a and 2a) models perform better, as the values of AIC are lower. The following discussion is based on the estimates from fixed-effect Model 1a.

Turning to the hypotheses, first the evidence for a ‘political’ view of transposition is discussed. The influence of party support for European integration (Hypothesis 3) is in the expected direction and it is significant in both specifications. The size of the effect is substantial. The factor effect for a standard deviation change in the party position is 1.6 (holding all other variables constant), so the expected count of transposed measures within the six-month period increases 1.6 times for 1 standard deviation increase in support for European integration. A range change in the observed values of the EU support variables brings about 4.5 more transposition processes finalized in a certain period (the other variables are held at their means). Looking at the predicted probabilities, if the EU support variable is at its minimum, and the other variables are held at their means, the

Table 2 Determinants of transposition rate: estimates from negative binomial models

Variable	Proposed effect	Estimates (std. errors)			
		Model 1 AIC 515.7	Model 1a AIC 513.88	Model 2 AIC 528.7	Model 2a AIC 520.82
(Intercept)		-5.59 (2.48)(*)	-7.87 (3.78)(*)	-3.46 (1.42)(*)	-8.12 (2.24)(***)
EU support	+	0.79 (0.30)**	0.70 (0.36)*	-	-
Position on Left-Right		-0.11 (0.09)	-0.01 (0.11)	-	-
Position on GAL-TAN		0.00 (0.10)	-0.23 (0.15)	-	-
EU soc. policy support	+	-	-	0.38 (0.19)*	1.20 (0.28)***
Government effectiveness	+	2.88 (0.74)***	4.48 (0.88)***	2.48 (0.72)***	4.20 (0.80)***
Number of coalition parties	-	0.15 (0.10)	0.49 (0.18)**	0.19 (0.12)	0.63 (0.20)**
Backlog	+	-0.02 (0.04)	0.00 (0.04)	-0.03 (0.04)	-0.02 (0.04)
Unemployment level	-	0.05 (0.03)	0.06 (0.08)	0.07 (0.03)*	-0.02 (0.26)
<i>Czech Republic</i>		-	0.14 (0.94)	-	-1.49 (1.04)
<i>Hungary</i>		-	1.28 (1.03)	-	-0.80 (1.00)
<i>Latvia</i>		-	1.46 (0.61)*	-	-0.08 (0.63)
<i>Lithuania</i>		-	0.65 (0.55)	-	-0.22 (0.55)
<i>Poland</i>		-	1.22 (0.61)*	-	-0.04 (0.58)
<i>Slovenia</i>		-	-0.39 (0.96)	-	-3.04 (1.05)**

Notes:

^a Significance codes (two-tailed tests): *** 0.001 ** 0.01 * 0.05.

^b Dependent variable: number of directives transposed in a country in a 6-month period (1998–2005). N = 112.

probability of a country finalizing more than three transposition processes within any six-month period is less than 2 percent. But if the EU support variable is at its observed highest score, the same probability is already almost 30 percent.

There is no evidence, however, for an impact of the ideological preferences (Hypotheses 1 and 2). The impact of party positions on both Left-Right and liberalism-traditionalism is not statistically significant, and practically indistinguishable from zero. Even in the restricted model these two variables fail to attain even the slightest significance. The conclusion about the 'political' vision of trans-

position is mixed: while government party preferences towards the EU help explain the rate of adoption of EU law in the NMS, ideological stances play no role at all.

It is interesting to add that when support for EU employment and social policy is included in the model instead of the more general preferences (Models 2 and 2a) then governing party preferences matter. When we compare the fixed-effects model (1a and 2a) we can also notice that the effect of the EU social policy-related preferences is both more significant and greater. The general conclusion about the influence of political positions on transposition

of social policy in CEE from the analysis is that approval of European integration in general, and of EU social policy in particular, significantly increase the rate of directives transposed.

The impact of government effectiveness is more straightforward. Governance capacity, as measured in the model, increases the number of directives transposed in any particular period. Hypothesis 5 is confirmed by the data. The coefficients are highly significant and in the expected direction. Moreover, they retain their size and significance in all four models. The size of the effect is also substantial. The factor change for one standard deviation change in the government effectiveness score is 1.8, holding the other variables constant. A range change in the score (moving from the minimum to the maximum of the observed values of the variable) leads to 8.2 more transposition processes completed in a 6-month period (the other variables are held at their means). If government effectiveness is at its minimum, and the other variables are held at their means, the probability of a country finalizing more than three transposition processes within any 6-month period is less than 2 percent, and rises to 30 percent when effectiveness is at its observed maximum.

The influence of the number of parties in a government (Hypothesis 6) is not in the expected direction but it is not consistently significant. This might have to do with the fact that some of the single-party governments have been minority governments, while some of the coalitions in the sample are oversized collations; so counting all the parties in the government might inflate the number of really powerful actors. In any case, the hypothesis deserves further attention and more careful reflection on its possible link with implementation outcomes. In general, the 'administrative' vision of transposition is supported as greater government effectiveness significantly increases the number of acts transposed in a certain time period. Administrative capacity did matter for the successful transposition of EU social policy in CEE during Enlargement and the early years of membership.

In all four models, the two control variables are not distinguishable from zero. With regard to the subject of the measure of pressure on the countries – expressed as the backlog of legislation to adapt to – this is particularly puzzling. Common sense, and the theoretical arguments about the power of conditionality, strongly suggest that the length of time legisla-

tion is pending implementation should be correlated with the amount of acts transposed in that particular period. The coefficient for the variable is, however, practically null. Of course, it is possible to capture the influence of EU pressure with a dummy variable for the year of accession, and an inspection of the residuals of the models suggests that it should work, as the outliers are time-periods immediately before and after the actual accession in May 2004. Such a solution, however, is somewhat arbitrary and the 'backlog' variable treats the supposed influence of the requirement to transpose on time in a much more systematic way. It remains for further studies to offer other conceptualizations and measurements of this proposition, or to interpret why it does not work. As there are no specific hypotheses stated in terms of the influence of the country dummies, no discussion and substantial interpretation is required. It can only be noted that Slovakia is used as a baseline, and that is the reason it does not appear in the results.

Overall, the empirical TSCS analysis provides important and novel conclusions about the process of transposition of EU social policy legislation in the NMS from CEE. First of all, propositions about the impact of political preferences have to be qualified: the strength of the association is completely different depending on whether we have in mind preferences over European integration and the specific EU policy field in particular, or general ideological, economic, and societal positions. When parties in power are more supportive for the EU and its policies, more directives complete their transposition procedures. Being more or less Leftist, or more or less conservative does not influence transposition outcomes. Apart from preferences, however, government effectiveness emerges as a critical factor determining how many directives governments are able to incorporate into domestic law during a particular period of time. These conclusions build upon, and go beyond, the insights from case-studies from the field (Dimitrova and Rhinard, 2005; Falkner et al., 2005; Sissenich, 2005) and show the benefits of employing a large-N-approach, based on data on the fate at the domestic level of more than 60 social policy directives.

Conclusion

EU legislation walks a long, and often winding, road before being applied at the domestic level. This article has focused on several aspects of this route,

analysing the case of adopting EU social policy in the former communist countries from CEE. Data on the length of negotiations and the derogations gained during the pre-enlargement period were complemented with data on transposition of a large number of social policy directives over the course of eight years in seven countries from the region.

Apart from the descriptive inferences that were drawn, the study tested several hypotheses conceptualizing the impact of party preferences and government capacity on transposition. A TSCS analysis lends support to the thesis that preferences of governments towards the EU, and the common European policies, matter for the amount of transposition measures adopted over periods of time. The impact of governance effectiveness is even more pronounced. Left-Right and libertarian-traditionalist ideology, however, are not found to exercise any influence on the transposition rate, even in the 'most likely' case of social policy. While this study does not dismiss a political vision of policy implementation in the multi-level governance system of the EU, it is a specific set of political preferences that matters. The implications of the results of the study are of relevance for a number of empirical, theoretical, and normative debates.

First, throughout the article various threads are drawn together in order to provide a fuller picture of the state of compliance with EU law in CEE and, albeit tentatively, we can conclude that 10 years of intense 'Europeanization' have secured a rather high level of transposition and implementation of EU social policy directives. It is a question for further research to assess how much of the legislation adopted is actually enforced, but recent data on infringement proceedings from the European Commission suggest a similar level of procedures started to the one for the 'old' member states.

Second, these conclusions point to another interesting question. Since all the countries had to, and largely did, take on board the same set of European rules, how much convergence in the field of social policy has been achieved as a result of Europeanization? Because, on the one hand, during pre-accession in particular, the CEE countries had on average to adopt more than six employment and social policy directives per year, it is to be expected that the broader policy area has acquired a distinctly European flavour. On the other hand, however numerous, EU social directives are confined to a restricted set of issues and the volume of

transposition measures might overestimate the importance of these measures in CEE. The lack of influence of party ideology, and the small number of transitional periods negotiated, can also be interpreted as lack of interest in the issues to be transposed.

Third, the study shows that 'hard law' can work at the national level even in the unlikely case of relatively poor countries with inefficient governance structures and high levels of unemployment. The article also reminds us that directives continue to be a widely used policy instrument. These findings feed directly into the debate pitting traditional law against 'soft law' approaches which has become characteristic of EU social policy in latter years.

Finally, the study concludes that current theoretical approaches correctly highlight the importance of both 'will' and 'ability' for compliance. However, the available theories do not link preferences and institutional constraints in a more rigorous way that takes into account that preferences and capacity for change condition each other, and are related in more complex ways than can be stated in simple, straightforward hypotheses. In a certain sense, it is inevitable that both 'will' and 'ability' influence the amount of policy and institutional change countries can (and want to) accomplish. The challenge is to provide a theoretical account which integrates both aspects into a single model. The present article shows that empirical analysis of different aspects of transposition and implementation in the EU can contribute to this goal.

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Notes

- 1 The present study deals mainly with transposition (or legal implementation). Studies of the practical implementation would probably reveal a different picture, since implementation and enforcement are generally much harder than the mere adoption of written rules. Nevertheless, the study of the process of transposition has an intrinsic value in itself, in addition to the insights about the broader implementation outcomes it can bring.
- 2 I am grateful to an anonymous reviewer for highlighting this point.

- 3 The dataset (accessed in April 2006) is available at: [http://www.unc.edu/~gwmkmarks/data.htm].
- 4 The dataset (accessed in April 2006) is available at: [http://www.worldbank.org/wbi/governance/govdata].
- 5 I am thankful to an anonymous reviewer for drawing attention to this point.
- 6 The model is estimated with the *glm* (generalized linear model) and *glm.nb* routines of the R statistical package.

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